

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEAST DIVISION

MOTION TO MODIFY ORDER FOR DISQUALIFICATION  
OF COUNSEL AND DISMISSAL OF CLASS CLAIMS OR  
IN THE ALTERNATIVE FOR APPOINTMENT OF COUNSEL

Comes now the Plaintiff, Henry Hamilton, by and through his undersigned attorney, and moves the Court to modify its order of January 5, 2015 disqualifying his counsel and dismissing the class claims unless he retains and attorney to enter an appearance on his behalf by January 16, 2015 or in the alternative to appoint counsel to represent him the present action. In support of his motion, Plaintiff requests that his counsel be granted the opportunity to either withdraw from representing the mayor of the Defendant City of Hayti in the unrelated pending state court criminal prosecution in order to resolve the conflict or be disqualified as counsel in the present action. Alternatively, Plaintiff requests that should his request be denied that he be granted additional time for seeking private counsel before the class claims are dismissed or, in the alternative, for the Court to appoint counsel under Local Rule 83-1201(I).

Plaintiff states that he and his attorney have made repeated efforts to obtain an attorney willing to represent him in this case without any success. He is 62 years old, disabled and indigent. His sole income is Social Security Disability payments and lacks sufficient financial resources to pay an attorney to represent him in this case. An attorney may obtain compensation only based on a contingent fee agreement or through court awarded attorney fees and expenses under 42 U.S.C. §1988 to be paid at the conclusion of the litigation and then only with the amount of the fees to be determined in the discretion of the court. Dismissal of the class claim may be a disincentive for an attorney to undertake representation. (See Affidavit of Jim R. Bruce attached as an Exhibit hereto).

Plaintiff prays that if the Court is unable to find counsel willing to accept appointment that he be granted an additional 45 days to seek counsel through organizations and law firms such as the Missouri Bar, NAACP, ACLU or other public interest law firms or organizations.

Respectfully submitted,

s/ Jim R. Bruce

Jim R. Bruce, #29,673

P.O. Box 37

Kennett, MO 63857

Telephone: (573) 888-9696

ATTORNEY FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of January, 2015, the foregoing pleading was filed electronically with the Clerk of the Court using the CM/ECF system, and the following attorneys of record were served through notice of electronic filing:

A.M. Scrawling, III  
1838 Broadway, P.O. Drawer 1119  
Cape Girardeau, MO 63702-119

John Grimm  
The Limbaugh Firm  
497 Kingshighway, P.O. Box 1150  
Cape Girardeau, MO 63702-1150

John Staffers  
The Limbaugh Firm  
497 Kingshighway, P.O. Box 1150  
Cape Girardeau, MO 63702-1150

This the 15<sup>th</sup> day of January, 2015.

s/Jim R. Bruce